

## Message Text

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AMEMBASSY TAIPEI  
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E.O. 11652: N/A

TAGS: BEXP, KS, EFIN, ECON, EINV

1. SUMMARY: FOLLOWING THE STRICT POLICY OF THE ROK. GOVERNMENT TECHNICAL ASSISTANCE AGREEMENTS FOR FOREMOST AND MEADOWGOLD ICE CREAM AND MILK PRODUCTS WERE ALLOWED TO EXPIRE HUS ENDING WHAT THE ROKG CALLS USE OF FOREIGN TRADEMARKS UNDER THE GUISE OF TECHNICAL KNOW-HOW. IN A RELATED DECISION THE KOREAN SUPREME COURT RULED THAT THE WEST GERMAN BAYER CO. HAD ABANDONED ITS ASPIRIN TRADEMARK. THE ASPIRIN TRADEMARK WAS CANCELLED BECAUSE IT WAS NOT REGISTERED FOR USE BY THE KOREAN GERMAN PHARMACEUTICAL COMPANY EVEN THOUGH APPROVAL FOR MANUFACTURE WAS ALLOWED UNDER THE FOREIGN CAPITAL INDUCEMENT ACT (FCIL). THESE DECISIONS ALONG WITH THE ROKG CAMPAIGN TO PURIFY THE KOREAN LANGUAGE, WHICH MAY BE DIRECTED AGAINST FOREIGN TRADEMARKS, RAISE THE QUESTIONS CONCERNING THE FUTURE USE OF FOREIGN TRADEMARKS IN KOREA. END SUMMARY.

2. ALTHOUGH KOREA IS NOT A MEMBER OF THE "PARIS UNION", A SYSTEM OF APPROVALS AND REGISTRATIONS FOR TRADEMARKS HAS BEEN ESTABLISHED. MOST TRADEMARKS ARE USED IN CONJUNCTION WITH LICENSING AGREEMENTS AND THE ROKG POLICY ON SUCH AGREEMENTS IS WELL DEFINED. THE KOREAN GOVERNMENT APPROVES LICENSING PROJECTS IN SUCH FIELDS AS METALS, MACHINERY AND ELECTRONICS; EXPORT ORIENTED PROJECTS; AND INVESTMENTS USING DOMESTIC RESOURCES. PROJECTS NOT ELIGIBLE INCLUDE THOSE ADVERSELY EFFECTING DOMESTIC SUPPLY AND DEMAND; PROJECTS WITHIN THE UNCLASSIFIED

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COMPETENCE OF DOMESTIC TECHNOLOGY; AND PROJECTS INVOLVING

SPECULATIVE LAND INVESTMENT. REGARDING TRADEMARKS, LAST FALL DPM NAM DUCK WOO STRESSED THE POLICY OF REFUSING APPROVALS FOR FOREIGN TRADEMARKS UNDER QUOTE GUISE OF OBTAINING TECHNICAL KNOW-HOW UNQUOTE. NAM CITED FOREMOST AND MEADOWGOLD AS SUCH CASES. PREDICTABLY, THESE TECHNICAL ASSISTANCE AGREEMENTS WERE REFUSED RENEWAL WHEN THEIR CONTRACTS EXPIRED IN MAY AND JUNE.

3. LAST MONTH THE ECONOMIC PLANNING BOARD REITERATED THE ROKG TRADEMARK POLICY FOR LUXURY ITEMS. THAT IS, EXTENSION OF EXISTING AGREEMENT FOR THE USE OF TECHNICAL KNOW-HOW AND/OR TECHNIQUES WILL NOT BE ALLOWED EXCEPT FOR EXPORT GOODS OR CAPITAL GOODS. MAKERS OF CONSUMER GOODS WITH FOREIGN TRADEMARKS OR TRADEMARKS DENOTED IN FOREIGN LANGUAGES WILL BE URGED TO ADOPT KOREAN LANGUAGE TRADEMARKS.

4. ROKG ALSO HAS REPORTEDLY ESTABLISHED A COMMITTEE OF 22 TO INAUGURATE A LANGUAGE PURIFICATION CAMPAIGN. THIS PROGRAM MAY AFFECT TRADEMARKS BY REQUIRING FOREIGN FIRMS TO ESTABLISH KOREAN EQUIVALENT TRADE MARKS. AT THIS TIME, IT IS NOT KNOWN WHETHER FOREIGN NAMES WILL BE ALLOWED TO REMAIN. THE EXAMPLE OF THE REPUBLIC OF CHINA (ROC) POLICY OF MANDATING USE OF CHINESE IN TRADEMARKS HAS BEEN DISCUSSED AS A POSSIBLE AVENUE FOR THE ROKG TO FOLLOW. IT APPEARS THAT THE LANGUAGE PURIFICATION DRIVE WILL SEEK TO DISCOURAGE TRADEMARK USE BY APPLYING THE TRADEMARK LAW REGIDLY TO FOREIGN TRADEMARKS. AMERICAN FIRMS, MOST NOTABLY COCA-COLA HAVE ALREADY REGISTERED KOREAN TRADEMARKS FOR USE ON THEIR PRODUCTS.

5. THE KOREAN TRADEMARK LAW PERMITS REGISTRATION TO A LOCAL PRODUCER ONLY FOR THOSE FIRMS WHICH HAVE BEEN AUTHORIZED USE OF TRADEMARKS IN CONJUNCTION WITH FOREIGN CAPITAL INDUCEMENT CONTRACTS OR TO DOMESTIC FIRMS LINKED TO FOREIGN FIRMS WITH EQUITY INVESTMENTS OF MORE THAN 50 PERCENT. THE DECISIONS AGAINST FOREMOST AND MEADOW GOLD SERVE NOTICE OF THE ROKG POLICY OF CANCELLING NONESSENTIAL TECHNICAL ASSISTANCE AGREEMENTS WITH FOREIGN TRADEMARKS. THE DECISION AGAINST BAYER ASPIRIN BY THE SUPREME COURT MEANS THAT THE TRADEMARK CANNOT BE FULLY PROTECTED BY THE FCIL. IN ORDER TO BE FULLY PROTECTED "USE LICENSE" MUST BE GRANTED UNDER THE TRADEMARK UNCLASSIFIED

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LAW BY THE ROKG BUREAU OF PATENTS.

6. IN AN APPARENT EFFORT TO BOLSTER THE ROKG POSITION, THE KOREA PATENT ASSOCIATION CONDUCTED A SURVEY OF MAJOR ENTERPRISES UTILIZING FOREIGN TECHNOLOGY. THE SURVEY REVEALED THAT TRADEMARK USE WAS APPROVED IN 26.3 PERCENT OF THE TECHNICAL INDUCEMENT CONTRACTS APPROVED BY THE ECONOMIC PLANNING BOARD. INTERESTINGLY, 83.4 PERCENT OF THE SURVEYED FIRMS

SAID THEY WOULD HAVE NO TROUBLE IF FOREIGN TRADEMARKS WERE  
TERMINATED. ONLY 15.2 PERCENT OF THE FOREIGN TRADEMARKS ARE  
USED FOR EXPORT GOODS.

7. COMMENT: THE MARKETS MOST ADVERSELY AFFECTED BY THIS  
POLICY ARE CONSUMER GOODS FOR KOREAN DOMESTIC SALES. HOWEVER,  
THE USE OF ALL FOREIGN TRADEMARKE IN TECHNICAL ASSISTANCE  
AGREEMENTS WILL COME UNDER CAREFUL EXAMINATION BEFORE EPB  
APPROVAL IS GIVEN. AMERICAN BUSINESSMEN SHOULD BE THOROUGHLY  
BRIEFED ON THE NECESSITY TO COMPLY FULLY WITH REGISTRATION  
PROCEDURES IN ORDER TO PROTECT THEIR TRADEMARKS. WE WOULD  
APPRECIATE OTHER POSTS COMMENTS ON THEIR TRADEMARK RELATED  
PROBLEMS.

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